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October 7, 1998

EX PARTE OR LATE FILED

Magalie R. Salas, Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

Re: Cellular Service and Other Commercial Mobile Radio
Services in the Gulf of Mexico, WT Docket No. 97-112
- Ex Parte Presentation

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Ms. Salas:

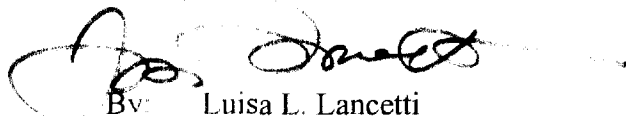
PrimeCo Personal Communications, L.P. ("PrimeCo"), by its attorney, hereby notifies the Commission of an oral *ex parte* presentation made to Commission personnel on October 6, 1998. Specifically, William Roughton, Tracey Green, and Luisa Lancetti (representing PrimeCo) met with Steve Weingarten, Steve Markendorff, Mike Ferrante, and Linda Chang of the Wireless Telecommunications Bureau.

The substance of the discussion held reflected the written submissions made by PrimeCo in the above-referenced proceeding. A copy of the presentation material distributed at the meeting is attached hereto. Pursuant to Section 1.1206(b)(2) of the Commission's rules, an original and one copy of this letter and attachment are enclosed. Please associate this material with the file in this proceeding.

Please contact us should you have questions concerning this filing.

Sincerely,

WILKINSON, BARKER, KNAUER & QUINN, LLP


By: Luisa L. Lancetti

Enclosure

cc: Steve Weingarten (w/o enc.)
Steve Markendorff (w/o enc.)
Mike Ferrante (w/o enc.)
Linda Chang (w/o enc.)

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LISA B. G. D. E.

***CELLULAR SERVICE AND OTHER
COMMERCIAL MOBILE RADIO SERVICES
IN THE GULF OF MEXICO***

WT DOCKET NO. 97-112

PCS LICENSING IN THE GULF OF MEXICO

PrimeCo Personal Communications, L.P.
October 6, 1998

THE OUTCOME OF THIS PROCEEDING WILL IMPACT EXISTING AND FUTURE PCS OPERATIONS AND CUSTOMERS

- PrimeCo's MTA service areas include the entire United States Gulf Coast region and offshore areas. The Commission *NPRM* first inserted uncertainty into the Gulf PCS licensing allocation and PrimeCo's service rights.
- PrimeCo submitted nearly \$500 million for the Gulf Coast MTA service areas. (Tampa-St. Petersburg-Orlando - \$99,327,723; Miami-Ft. Lauderdale - \$120,020,126; Houston - \$82,680,425; San Antonio - \$51,950,059; New Orleans-Baton Rouge - \$89,475,484; and Jacksonville - \$44,500,544.) The licenses were valued and purchased based on the fact that no *separate* Gulf PCS allocation was made and that PrimeCo had Gulf service rights. This affected value determinations and the operational characteristics of the licensed service.
- PrimeCo provides service in Gulf Coast areas including coastal and offshore areas. The Company has expended enormous sums (in excess of an additional \$500 million) to serve Gulf Coast and offshore areas.
- PrimeCo has already relocated incumbent microwave links in the Gulf
- Major population centers and transportation corridors press against the Gulf Coast shoreline; any change to the Commission's licensing and technical rules would detrimentally impact service to existing and future PrimeCo customers — both land *and* water-based.
- A separate Gulf allocation would create an unnecessary "zone of chaos" which will undermine the provision of reliable service to land and Gulf-based PCS customers. The Commission should avoid the problems which have plagued the provision of Gulf *cellular* service to date. The disruption to customers would be significant.

• PrimeCo serves the Texas Gulf Coast through licensees Houston MTA, L.P. and San Antonio MTA, L.P., partnerships in which PrimeCo holds a majority ownership and sole general partnership interest.

1) **Incumbent Broadband PCS Licensees Have Existing Service Rights in Gulf of Mexico Offshore Areas — These Legitimate Service Rights and Reliance Interests Must Be Protected**

- **Service Area Boundaries.** County and State Boundaries — the basis of MTA/BTA PCS service area allocations — extend into Gulf offshore areas.
 - The “natural flow of commerce” along the Gulf Coast extends beyond the shoreline into the Gulf’s offshore areas — consistent with the MTA/BTA allocations which include offshore areas.
- **Nationwide Frequency Allocation.** Broadband PCS frequencies were allocated on a nationwide basis — with no separate provision for Gulf offshore areas.
- **Technical Parameters.** PCS power and antenna height limits authorize and enable PCS licensees to provide service to Gulf offshore areas. Indeed, service to offshore areas naturally occurs and cannot be avoided.
- **Precedent** The *Mobil Oil Telcom* decision recognized that PCS licensees bordering the Gulf are authorized to serve the Gulf. 11 FCC Rcd. 4115, 4116 n.10 (WTB 1996). The Commission also confirmed the existence of the PCS service authorization to Gulf offshore areas in the *Maritime Communications* proceeding. See *Second Report and Order and Second Further Notice*, PR Docket No. 92-257, 12 FCC Rcd. 16949, 16964, 16991(1997). Similarly, the recent *Datacom* decision authorized point-to-point operations in the Gulf on a secondary basis only. *Rig Telephones, Inc. d/b/a Datacom*, Order, DA 98-1739, ¶ 10 (WTB rel. Sept. 1, 1998).
 - A separate Gulf PCS allocation would represent an unlawful license modification and would arguably constitute an unconstitutional taking.
- **Incumbent Licensee Coordination.** Interference coordination between existing PCS licensees can be easily facilitated. By contrast, separate Gulf-based licensees will pose enormous coordination and interference difficulties.

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- ***Gulf Microwave Relocation.*** The Commission's microwave relocation rules contemplate relocation of Gulf microwave incumbents and this has occurred because of interference issues. The rules further provide for clearing of all incumbent OFS licensees from 2 GHz bands and secondary status for future OFS licensing. 47 C.F.R. § 101.81; *Datacom* ¶ 10. PCS licensees have already relocated incumbent microwave licensees' offshore paths in the Gulf.
 - Even secondary licensing in offshore regions can result in interference problems for PCS licensees. PrimeCo has relocated microwave incumbents 250 miles out into the Gulf from the Houston MTA because of significant interference concerns.

2) **A Separate Gulf PCS License Allocation Scheme Presents Technical Problems that Jeopardize MTA/BTA Licensees' Service Rights and the Provision of Reliable Service**

- **Degradation of Service Quality.** Interference problems and potential incompatible technologies will degrade the quality of service provision for land- and water-based CMRS customers if separate Gulf PCS licenses are allocated. Capacity problems will occur.
 - The control of harmful interference between radio licensees is a critical — and core — statutory and regulatory function of the Commission. 47 U.S.C. §§ 302, 303(m), 323, 333; *Re-Examination of Technical Regulations*, 99 FCC 2d 903 (1984). Separate Gulf-based licensing would undermine this core responsibility and greatly increase the potential for harmful interference.
 - Interference problems are particularly acute for CDMA technology (utilized by PrimeCo and other PCS licensees) because the CDMA signal cannot be isolated against background interference created by a prospective separate Gulf licensee. The low power of this technology limits the ability to control interference from external sources.
 - With no obstruction to block signal, atmosphere conditions over water will cause intermittent interference and service disruption to land and Gulf-based customers.
- **Network Engineering in Coastal Areas.** Coastal areas pose unique engineering difficulties. Gulf-based and incumbent PCS licensees cannot coordinate signal strength at border areas in the same manner as adjacent land-based licensees.
 - Base stations cannot be positioned for “front to back” antenna isolation, but must look Gulfward as well as inland.
 - Population and transportation corridors press against the shoreline, requiring that sites be close to shore.
 - Unusually shaped shorelines and barrier islands with numerous buildings, such as Galveston Island, require sites to be located directly on the coastline.

(cont.)

- The finite number of available channels again calls into question the feasibility of frequency coordination and the ability to reliably provide separate Gulf PCS service.
- ***Disputes Between Incumbent and Gulf-Based Carriers.*** Separate Gulf licensing will result in co-block interference and other conflicts between land- and water-based Gulf carriers. For example, separate Gulf licensing will result in co-block interference by undermining channel availability for CDMA systems. A separate Gulf-based PCS allocation will result in interference and coordination disputes because PCS system performance is based on the “best or strongest service.”
- ***Roaming Costs and Customer Confusion.*** Separate Gulf PCS licensing will unnecessarily confuse and tax customers with unintended roaming fees and more cumbersome billing arrangements. A home call may still originate (and be charged) on an adjacent system as a roaming call. Moreover, blocking roaming access would degrade service because of interference from adjacent Gulf operations.
- ***Facilities Siting.*** Zoning and land use restrictions already limit site availability in many coastal areas; separate water-based Gulf licensees have no authority to construct land-based transmitters on incumbent PCS service territory, and land-based sites would seriously undermine the provision of reliable, authorized service. Siting, interference and frequency coordination disputes would be legion if a separate water-based allocation was established.
- ***Section 309(j) Objectives.*** A separate auction for Gulf-based broadband PCS licenses will hinder deployment of offshore PCS, result in insufficient spectrum use, and will not promote wide dissemination of licenses. Incumbent PCS licensees can provide ubiquitous and commercially viable Gulf service, thereby promoting efficient spectrum use, reliable service to the public and rapid service deployment. There is no basis for a Gulf PCS auction.

CONCLUSION

- The Commission should reject service area and frequency allocation plans that unlawfully modify incumbent PCS providers' licenses and disrupt legitimate reliance interests.
- The Commission should confirm incumbent broadband PCS licensees' existing rights to serve Gulf offshore areas.
- This policy will promote a number of objectives, including:
 - Reliable service to land-based and water-based customers along the Gulf Coast;
 - Seamless and commercially viable wireless services to water-based recreational and commercial customers in Gulf offshore areas;
 - Avoidance of significant interference and frequency coordination disputes which would otherwise arise between incumbent PCS licensees and any separate Gulf-based licensees; and
 - Viable competition between wireless telecommunications service providers in the Gulf offshore areas.